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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,051	05/30/2007	Kun-Min Yeo	1403-15 PCT US	7981
66547 7590 11/02/2009 THE FARRELL LAW FIRM, LLP 290 Broadhollow Road Suite 210E Melville, NY 11747				
EXAMINER ABRAHAM, ESAW T				
ART UNIT		PAPER NUMBER		
2112				
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11/02/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/585,051

Applicant(s)

YEO ET AL.

Examiner

ESAW T. ABRAHAM

Art Unit

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/29/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CS-100)
Paper No(s)/Mail Date 1/8/08, 6/29/06, 9/9/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Preliminary Amendment

1. The preliminary amendment filed 04/21/08 cancels claims 1-12 and 26-32 and introduces claims 13-25.

Oath Declaration

2. The oath/declaration filed on 05/30/07 is acceptable.

Information Disclosure Statement

3. The references listed in the information disclosure statement (IDS) submitted have been considered. The submission is in compliance with the provisions of 37 CFR 1.97. Form PTO-1449 is signed and attached hereto.

Priority

3. Acknowledgment is made of applicant's claim for **foreign priority** under 35 U.S.C. 119(a)-(d) which papers have been placed of record in the file.

Specification

4. The specification is objected to because:

- The disclosure is objected to because of the following informalities: Heading for each section of specification should be provided (Related Art, Background, Brief Summary of the Invention, Brief Description of the Several Views of the Drawing(s), Detail Description).

Abstract

Applicant is reminded of the proper language and format for an abstract of the disclosure.

See MPEP 608.01(b).

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

- The abstract is objected because:

The language should be clear and concise and should not repeat information given in the title or claim(s) and it exceeds 150 words and exceeds more than one paragraph.

Appropriate correction is required.

Drawings

6. The drawings are objected to because:

- Figures 1-6 should be designated by a legend such as – **prior art** - in order to clarify what is applicant's invention. (see MPEP 608.02(g)).

- The **font size** for the descriptive characters is **too small** and virtually **unreadable**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet,

even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112, 2nd

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 13-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites, "estimating a last block sequence number of successive blocks that are successfully received....estimating a number of groups of successive blocks that are successfully received...." which renders the claim indefinite since it is not clear how to distinguish the number of successive blocks from the number of groups of successive blocks? Further, claim 13 recites "a last block sequence number of successive block" however successive blocks of what

exactly is being referred to here? Furthermore, claim 13 recites “estimating a last block sequence number of successive blocks... estimating a last block sequence number of successive blocks... estimating a number of successive blocks that are successfully received...emphasis added” which is vague with respect to how this estimation is being done and what kind estimation is referred to here as what type(s) of operation to the step of estimation are being carried out. The claim needs to be clear and explicit in defining limitations.

Claim 16 recites the limitation “estimating a last block sequence number of successive blocks that are successfully received ...recording... types of groups of successive blocks that are successfully or unsuccessfully received” which renders the claim indefinite since it is not clear how to distinguish the number of successive blocks from the types of groups of successive blocks? Further, claim 16 recites “a last block sequence number of successive block” however successive blocks of what exactly is being referred to here? Furthermore, Claim 16 recites “estimating a last block sequence number of successive blocks... estimating a last block sequence number of successive blocks... estimating a types of successive blocks that are successfully received...emphasis added” which is vague with respect to how this estimation is being done and what kind estimation is referred to here as what type(s) of operation to the step of estimation are being carried out. The claim needs to be clear and explicit in defining limitations.

Claim 19 recites the limitation “estimating a last block sequence number of successive blocks that are successfully received ...recording... types of groups of successive blocks that are successfully or unsuccessfully received” which renders the claim indefinite since it is not clear how to distinguish the number of successive blocks from the types of groups of successive blocks? Further, claim 19 recites “a last block sequence number of successive block” however

successive blocks of what exactly is being referred to here? Furthermore, claim 19 recites "estimating a last block sequence number of successive blocks... estimating a last block sequence number of successive blocks... estimating a types of successive blocks that are successfully received...emphasis added" which is vague with respect to how this estimation is being done and what kind estimation is referred to here as what type(s) of operation to the step of estimation are being carried out. The claim needs to be clear and explicit in defining limitations.

Independent claim 20 contains similar limitation as claim 16 is also rejected under 112, 2nd paragraph as well.

Independent claim 25 contains similar limitation as claim 19 is also rejected under 112, 2nd paragraph as well.

Dependent claim(s) depend(s) from the base claim(s) and inherently include(s) limitations therein and therefore is (are) rejected under 35 USC 112, 2nd paragraph as well.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 13-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non- statutory subject matter.

Claims 13, 16, 19, 20 and 25 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent¹ and recent Federal Circuit decisions² indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter

(such as an article or material) to a different state or thing. While the instant claim recites a series of steps or acts to be performed, the claim neither transforms underlying subject matter nor is positively tied to another statutory category that accomplishes the claimed method steps, and therefore does not qualify as a statutory process. For example the sending feedback method including steps of estimating, recording and sending are of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine. The Applicant has provided no explicit and deliberate definitions of "estimating, recording and sending" to limit the steps to the electronic form of the sending of feedback message," and the claim language itself is sufficiently broad to read about §101, mentally stepping through the §101 analysis, recalling *In re Bilski*, and telling the person who had the question his or her opinion.

Dependent claims depend from the above base claims are rejected under 35 USC 101 for similar reasons. The dependent claims do not cure rejections made to base claims.

Conclusion

9. Upon receiving a response from the Applicant, including claim amendments, the Examiner reserves the right to perform another search and reject the claims on the prior art if applicable. Relevant art has been cited herein, however, not applicable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esaw T. Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8am-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Esaw Abraham/
Primary Examiner, Art Unit 2112
10/22/09